



U.S. Department of Justice

Federal Bureau of Investigation

Washington, D.C. 20535

May 24, 2011

DR. IVAN GREENBERG

Subject: ETHICS WAIVERS

FOIPA No. 1152257- 000

Dear Dr. Greenberg:

The enclosed documents were reviewed under the Freedom of Information/Privacy Acts (FOIPA), Title 5, United States Code, Section 552/552a. Deletions have been made to protect information which is exempt from disclosure, with the appropriate exemptions noted on the page next to the excision. In addition, a deleted page information sheet was inserted in the file to indicate where pages were withheld entirely. The exemptions used to withhold information are marked below and explained on the enclosed Form OPCA-16a:

**Section 552**

- (b)(1)
- (b)(2)
- (b)(3) \_\_\_\_\_  
\_\_\_\_\_
- (b)(4)
- (b)(5)
- (b)(6)

**Section 552a**

- (b)(7)(A)
  - (b)(7)(B)
  - (b)(7)(C)
  - (b)(7)(D)
  - (b)(7)(E)
  - (b)(7)(F)
  - (b)(8)
  - (b)(9)
- (d)(5)
  - (j)(2)
  - (k)(1)
  - (k)(2)
  - (k)(3)
  - (k)(4)
  - (k)(5)
  - (k)(6)
  - (k)(7)

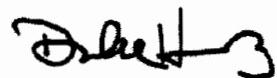
70 page(s) were reviewed and 49 page(s) are being released.

- Document(s) were located which originated with, or contained information concerning other Government agency(ies) [OGA]. This information has been:
  - referred to the OGA for review and direct response to you.
  - referred to the OGA for consultation. The FBI will correspond with you regarding this information when the consultation is finished.
- You have the right to appeal any denials in this release. Appeals should be directed in writing to the Director, Office of Information Policy, U.S. Department of Justice, 1425 New York Ave., NW, Suite 11050, Washington, D.C. 20530-0001. Your appeal must be received by OIP within sixty (60) days from the date of this letter in order to be considered timely. The envelope and the letter should be clearly marked "Freedom of Information Appeal." Please cite the FOIPA Number assigned to your request so that it may be easily identified.
- The enclosed material is from the main investigative file(s) in which the subject(s) of your request was the focus of the investigation. Our search located additional references, in files relating to other individuals, or matters, which may or may not be about your subject(s). Our experience has shown, when ident, references usually contain information similar to the information processed in the main file(s). Because of our significant backlog, we have given priority to processing only the main investigative file(s).

If you want the references, you must submit a separate request for them in writing, and they will be reviewed at a later date, as time and resources permit.

- ☒ See additional information which follows.

Sincerely yours,



David M. Hardy  
Section Chief  
Record/Information  
Dissemination Section  
Records Management Division

Enclosure(s)

In response to your Freedom of Information Act (FOIA) request, enclosed is a processed copy of responsive documents.

## **EXPLANATION OF EXEMPTIONS**

### **SUBSECTIONS OF TITLE 5, UNITED STATES CODE, SECTION 552**

- (b)(1) (A) specifically authorized under criteria established by an Executive order to be kept secret in the interest of national defense or foreign policy and (B) are in fact properly classified to such Executive order;
- (b)(2) related solely to the internal personnel rules and practices of an agency;
- (b)(3) specifically exempted from disclosure by statute (other than section 552b of this title), provided that such statute(A) requires that the matters be withheld from the public in such a manner as to leave no discretion on issue, or (B) establishes particular criteria for withholding or refers to particular types of matters to be withheld;
- (b)(4) trade secrets and commercial or financial information obtained from a person and privileged or confidential;
- (b)(5) inter-agency or intra-agency memorandums or letters which would not be available by law to a party other than an agency in litigation with the agency;
- (b)(6) personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy;
- (b)(7) records or information compiled for law enforcement purposes, but only to the extent that the production of such law enforcement records or information ( A ) could be reasonably be expected to interfere with enforcement proceedings, ( B ) would deprive a person of a right to a fair trial or an impartial adjudication, ( C ) could be reasonably expected to constitute an unwarranted invasion of personal privacy, ( D ) could reasonably be expected to disclose the identity of confidential source, including a State, local, or foreign agency or authority or any private institution which furnished information on a confidential basis, and, in the case of record or information compiled by a criminal law enforcement authority in the course of a criminal investigation, or by an agency conducting a lawful national security intelligence investigation, information furnished by a confidential source, ( E ) would disclose techniques and procedures for law enforcement investigations or prosecutions, or would disclose guidelines for law enforcement investigations or prosecutions if such disclosure could reasonably be expected to risk circumvention of the law, or ( F ) could reasonably be expected to endanger the life or physical safety of any individual;
- (b)(8) contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions; or
- (b)(9) geological and geophysical information and data, including maps, concerning wells.

### **SUBSECTIONS OF TITLE 5, UNITED STATES CODE, SECTION 552a**

- (d)(5) information compiled in reasonable anticipation of a civil action proceeding;
- (j)(2) material reporting investigative efforts pertaining to the enforcement of criminal law including efforts to prevent, control, or reduce crime or apprehend criminals;
- (k)(1) information which is currently and properly classified pursuant to an Executive order in the interest of the national defense or foreign policy, for example, information involving intelligence sources or methods;
- (k)(2) investigatory material compiled for law enforcement purposes, other than criminal, which did not result in loss of a right, benefit or privilege under Federal programs, or which would identify a source who furnished information pursuant to a promise that his/her identity would be held in confidence;
- (k)(3) material maintained in connection with providing protective services to the President of the United States or any other individual pursuant to the authority of Title 18, United States Code, Section 3056;
- (k)(4) required by statute to be maintained and used solely as statistical records;
- (k)(5) investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment or for access to classified information, the disclosure of which would reveal the identity of the person who furnished information pursuant to a promise that his/her identity would be held in confidence;
- (k)(6) testing or examination material used to determine individual qualifications for appointment or promotion in Federal Government service the release of which would compromise the testing or examination process;
- (k)(7) material used to determine potential for promotion in the armed services, the disclosure of which would reveal the identity of the person who furnished the material pursuant to a promise that his/her identity would be held in confidence.

FEDERAL BUREAU OF INVESTIGATION  
FOIPA  
DELETED PAGE INFORMATION SHEET

**Serial Description ~ Unrecorded Serial**

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FEDERAL BUREAU OF INVESTIGATION  
FOIPA  
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FOIPA  
DELETED PAGE INFORMATION SHEET

Serial Description ~ Unrecorded Serial

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Page 8 ~ b5, b6  
Page 9 ~ b5, b6  
Page 10 ~ b5, b6  
Page 11 ~ b5, b6  
Page 18 ~ Referral/Direct  
Page 31 ~ Referral/Direct  
Page 32 ~ Referral/Direct  
Page 33 ~ Referral/Direct  
Page 34 ~ Referral/Direct  
Page 35 ~ Referral/Direct  
Page 74 ~ Referral/Direct  
Page 75 ~ Referral/Direct  
Page 76 ~ Referral/Direct  
Page 77 ~ Referral/Direct  
Page 78 ~ Referral/Direct  
Page 79 ~ Referral/Direct  
Page 80 ~ Referral/Direct  
Page 192 ~ Referral/Direct

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U.S. Department of Justice

**Federal Bureau of Investigation**

**Office of the General Counsel**

Washington, D.C. 20535

December 21, 2001

**MEMORANDUM FOR THE DEPUTY ATTORNEY GENERAL**

THROUGH: ASSISTANT ATTORNEY GENERAL FOR ADMINISTRATION

FROM: Larry R. Parkinson  
General Counsel, FBI

SUBJECT: WAIVER UNDER 18 U.S.C. § 208(b)(1) FOR ROBERT S. MUELLER, III.

**PURPOSE:** To obtain a waiver from the disqualification of the financial conflict of interests statute so that Robert S. Mueller, III, will be able to participate as Director, Federal Bureau of Investigation (FBI), in matters arising in connection with the CALEA program that involve the interests identified below.

**TIMETABLE: Priority.**

**DISCUSSION:** Pursuant to the provision of 18 U.S.C. § 208(b), I hereby request a waiver from the prohibition of 18 U.S.C. § 208(a) for Robert S. Mueller, III. Section 208(a) prohibits, in pertinent part, an executive branch employee from participating personally and substantially in particular matters in which to his knowledge, he, his spouse, or other organizations with whom he has a specified relationship, has a financial interest. However, section 208(b)(1) permits a waiver of the prohibition where the employee's financial interest in a matter is not so substantial as to be deemed likely to affect the integrity of the services which the government may expect from him.

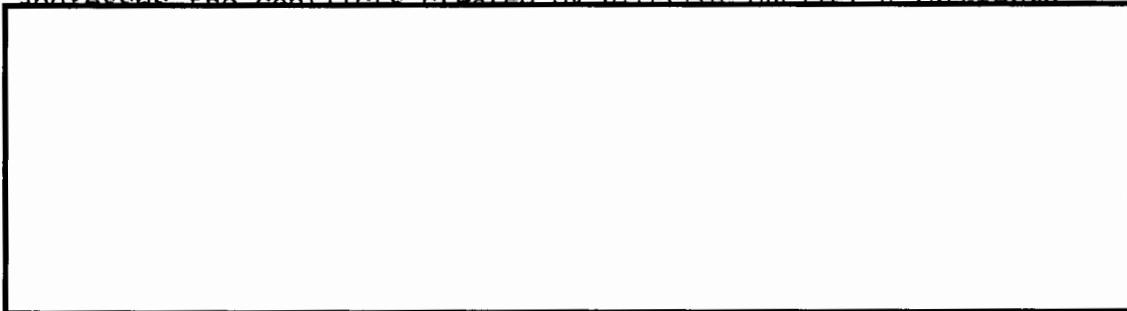
Under the Department of Justice Order on procedure for complying with ethics requirements, you have been delegated the authority for making ethics determinations for Mr. Mueller, including waiving the section 208(a) prohibition. This waiver will be your determination that certain financial interests are not so substantial as to be likely to affect the integrity of his services to the government in the matters addressed by the waiver.

2000 DEC 28 PM 3:11

DEPARTMENT OF JUSTICE  
FEDERAL BUREAU OF INVESTIGATION  
EXCISE TAX SECTION

Memorandum for the Deputy Attorney General  
Re: Waiver under 18 U.S.C. § 208(b)(1) for Robert S. Mueller, III

This waiver is in addition to the waiver you previously granted that extended to all of Director Mueller's financial interests that do not exceed \$25,000. This waiver specifically addresses the conflicts created by Director Mueller's interests



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For the purposes of this waiver request, the Governmental duties that Director Mueller has that would impact these financial interests are those involved in heading the component charged with implementing the CALEA program. These effects on these firms prohibit him from performing his government duties in relation to each CALEA matter that involves the interests of firms in which he holds an interest, i.e., [redacted]

CALEA was enacted to preserve law enforcement's ability to conduct lawfully-authorized electronic surveillance in order to ensure national security and public safety. The initiative responded to changing technologies that were precluding interception with existing methods and equipment. CALEA charged the Attorney General with a leadership role in implementing the act, including setting industry-wide standards for intercepting communications and entering into cooperative agreements with telecommunications carriers to allow them to recover the costs of installing the necessary equipment. The Attorney General's authority has been assigned to the Director, FBI. To date, CALEA program focus has been on setting standards, acquiring right-to-use licenses from manufacturers, entering into cooperative agreements with service providers, and, most recently, deploying CALEA-compliant solutions. The issues are both broad brush, e.g., setting standards, and company specific, e.g., purchasing licenses and deploying solutions. Most, if not all, of the

Memorandum for the Deputy Attorney General  
Re: Waiver under 18 U.S.C. § 208(b)(1) for Robert S. Mueller, III

interests that may be affected by CALEA-related actions are in the telecommunications sector, especially, the phone companies. [REDACTED] are two such companies that are significantly involved, both in relation to industry-wide standards and company-specific actions. The issues that are most likely to be encountered in the near term are those associated with deploying solutions and setting standards in conjunction with the Federal Communications Commission. Since negotiations are just beginning, there is no reliable estimate of the dollar value of deployment agreements to SBC or Verizon. Our current estimate of the value of a deployment agreement to a company like these is approximately \$20 million, though ultimately, the figure may be significantly higher. SBC's operating revenues for CY 2000 were \$51.5 billion and Verizon's totaled \$43.3 billion.

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RECOMMENDATIONS: In light of the relatively small portion of Director Mueller's [REDACTED]

[REDACTED] I find that there is little likelihood that these interests will affect the integrity of Director Mueller's official actions. Therefore, I recommend that you waive the section 208(a) prohibition as to these interests, but, in an abundance of caution, only to the extent the matter does not involve [REDACTED] as a party, i.e., directly affect either, e.g., deployment agreements with either company or litigation in which either company is a named party.

APPROVE: 

DISAPPROVE: \_\_\_\_\_

DATE: 1/4/02

OTHER: \_\_\_\_\_

1 - Ms. Mary Braden  
Director  
Departmental Ethics Office  
Room 6642  
U.S. Department of Justice  
Washington, D.C. 20531

Department of Justice  
EXECUTIVE SECRETARIAT  
CONTROL SHEET

1. FOLDER NO: 1287096      4. DATE OF DOCUMENT: 12/21/2001  
2. TRACKING ID NO: X01-115937      5. DATE RECEIVED: 01/07/2002  
3. RESERVED      6. DUE DATE: No Due Date

7. FROM: Larry R. Parkinson  
General Counsel  
Federal Bureau of Investigation  
Washington, DC 20535-0001

8. TO: DAG

9. CATEGORY: SENSITIVE

10. SUBJECT:  
Memo (rec'd from ODAG) requesting the DAG's approval of a waiver from the disqualification of the financial conflict of interests statute so FBI Director Mueller will be able to participate as FBI Director in matters arising in connection with the CALEA program. JMD/Braden recommended approval by note dated 12/31/2001. (kgt)

11. ACTION/INFORMATION:

Referred To:	Date Assigned:	Action:
ESFILES	01/07/2002	For closing, filing, and dispatching. FBI forwarded pkg directly to ODAG. JMD concurred by note dated 12/31/01 and DAG approved on 1/4/02. ES returned original pkg to FBI.

12. RESERVED FOR EXECUTIVE SECRETARIAT USE  
waiver - CALEA

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13. EXECUTIVE SECRETARIAT CONTACT: [REDACTED]

LIMITED OFFICIAL USE

March 23, 2001

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Federal Bureau of Investigation  
Washington, DC 20535

SOURCE SELECTION SENSITIVE INFORMATION -- LIMITED OFFICIAL USE

Dear [REDACTED]

This letter responds to your request for a waiver pursuant to 18 U.S.C. § 208(b)(1) to allow you to participate as a member of the Source Selection Advisory Council ("SSAC") considering proposals submitted in connection with the FBI's technology upgrade, the Trilogy procurement, Solicitation # GSC-TFMG-01-M026. This procurement affects your financial interests, which arise from your holding of stock in Microsoft Corporation ("Microsoft").

You have advised this Office that you currently hold approximately [REDACTED] stock makes up [REDACTED] your investments.

For the purposes of this waiver request, the Governmental duties you have that conflict with your financial interests are those as a member of the SSAC considering the Trilogy proposals. In that role, you are required to analyze and recommend appropriate action on the proposals, including recommending to the source selection authority which proposal should be accepted. You are not the selection authority, however. In this case the selection official is an employee of Federal Systems Integration and Management Center.

Among the four companies competing for the prime contract, each has proposed subcontractors and various vendors as sources of equipment and supplies. Two of those competing for the prime contract propose using off-the-shelf products produced by Microsoft. The total value for both offers is estimated to be \$25 thousand. In carrying out your duties as a member of the SSAC, your interests in Microsoft could be affected by the

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1 - Mr. Parkinson  
1 - [REDACTED]  
1 - Mr. R. Coyne  
1 - [REDACTED]  
1 - Mr. P. Kelley  
1 - [REDACTED]  
① ALU Library (Technics/Conflicts of Interests/Waiver)  
1 - ALU Tickler  
66F-HQ-1201415-C

o. Dir.  
Ref. of  
staff  
f. of Gen.  
Counsel  
st. Dir.  
Dir. Inv.  
Dir. Fin.  
Finance  
Info. Res.  
NSB  
NSC  
National Sec.  
Personnel  
Training  
A. of EEA  
A. of Audit  
Lang. Affid.  
Veterans Affairs

APPROVED: Chem. Inv. \_\_\_\_\_ Inspection \_\_\_\_\_ Training \_\_\_\_\_  
CIS \_\_\_\_\_ Laboratory \_\_\_\_\_ Dir. of EEA \_\_\_\_\_  
Finance \_\_\_\_\_ National Sec. \_\_\_\_\_ NSB \_\_\_\_\_  
OIG \_\_\_\_\_ Gen. Counsel \_\_\_\_\_ Dir. of Audit \_\_\_\_\_  
Dputy Director \_\_\_\_\_ Info. Res. \_\_\_\_\_ Personnel \_\_\_\_\_ Dir. of CIS \_\_\_\_\_

[Redacted]  
selection or non-selection of a proposal that included using Microsoft products.

This effect on Microsoft gives you a disqualifying financial interest in the matter. Under 18 U.S.C. §208(a), Federal employees may not participate personally and substantially in any particular matter that would have a direct and predictable effect on their financial interests or those of certain others, such as their spouses. Thus, you would be disqualified from acting on the proposals.

Nevertheless, under 18 U.S.C. § 208(b)(1), I may waive the prohibition of 18 U.S.C. § 208(a) where I determine that the employee's financial interest in the matter "is not so substantial as to be deemed likely to affect the integrity of the services which the Government may expect" from the employee. I have been delegated authority by the Director, FBI, to make this determination.

Accordingly, in light of the minor role the services that are proposed to be purchased from Microsoft plays in this procurement, the small impact the purchase or non-purchase of services from Microsoft would likely have on Microsoft's economic health, and the small percentage your Microsoft holdings represent of your investments, I hereby grant a waiver of 18 U.S.C. § 208(a) with regard to your participation as a member of SSAC that would affect your financial interests in Microsoft. That financial interest is not so substantial as to be deemed likely to affect the integrity of your services in these matters.

This waiver applies only to your participation in the SSAC considering proposals submitted in response to Solicitation GSC-TFMG-01-M026 and only as to your current holdings of Microsoft stock. The statute, 18 U.S.C. § 208(a), continues to disqualify you from participating personally and substantially in any other particular matter that involves Microsoft's interests. In addition, any significant change in your interest in Microsoft, beyond normal market fluctuations or dividend reinvestments would need to be separately evaluated.

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[Redacted] To [Redacted] b6  
I have consulted with the Office of Government Ethics on  
this waiver and will provide that office a copy of it.

Sincerely yours,

P.W. Kelley  
Deputy Designated Agency  
Ethics Official

April 30, 2008

To: Ms. Janice Rogers  
Director, Departmental Ethics Office

From: Patrick W. Kelley  
Deputy Designated Agency Ethics Official (DDAEAO)

Re: 18 U.S.C. § 208 (b) (1) WAIVERS AND OPINIONS UNDER  
18 U.S.C. §§ 202-209, AND TRAVEL UNDER 31 U.S.C. § 1353

This responds to your e-mail dated March 31, 2008.

There were no waivers granted by the FBI under 18 U.S.C. § 208 (b) (1) from October 1, 2007, through March 31, 2008. Enclosed are two copies of: (1) the eleven opinions issued under 18 U.S.C. §§ 202-209 by the FBI from October 1, 2007, through March 31, 2008; and (2) the SF-326 Semi-Annual Report of Payments Accepted from a Non-Federal Source for the period October 1, 2007, through March 31, 2008.

Enclosures (12)

1 - OIC Library (Ethics/Travel/NonFederal Sources)  
1 - 319V-HQ-A1487693  
RLP:rlp (2)

October 30, 2008

To: Ms. Janice Rogers  
Director, Departmental Ethics Office

From: Patrick W. Kelley  
Deputy Designated Agency Ethics Official (DDAEO)

Re: 18 U.S.C. § 208 (b) (1) WAIVERS AND OPINIONS UNDER  
18 U.S.C. §§ 202-209, AND TRAVEL UNDER 31 U.S.C. § 1353

This responds to your e-mail dated September 30, 2008.

There were no waivers granted by the FBI under 18 U.S.C. § 208 (b) (1) from April 1, 2008, through September 30, 2008. Enclosed are two copies of: (1) the fourteen opinions issued under 18 U.S.C. §§ 202-209 by the FBI from April 1, 2008, through September 30, 2008; and (2) the SF-326 Semi-Annual Report of Payments Accepted from a Non-Federal Source for the period April 1, 2008, through September 30, 2008.

Enclosures (12)

1 - OIC Library (Ethics/Travel/NonFederal Sources)  
1 - 319V-HQ-A1487693  
RLP:rhp (2)

U.S. Department of Justice

Federal Bureau of Investigation



~~Office of the General Counsel~~

Washington, D.C. 20535

April 28, 2006

To: Janice M. Rogers  
Director, Departmental Ethics Office  
From: Patrick W. Kelley *Patrick W. Kelley*  
Deputy Designated Agency Ethics Official (DDAEO)

Re: 18 U.S.C. § 208 (b) (1) WAIVERS AND OPINIONS UNDER  
18 U.S.C. §§ 202-209, AND TRAVEL UNDER 31 U.S.C. § 1353

This responds to your memorandum dated April 3, 2006.

There were no waivers granted by the FBI under 18 U.S.C. § 208 (b) (1) from October 1, 2005 through March 31, 2006. Enclosed are two copies of: (1) the eleven opinions issued under 18 U.S.C. §§ 202-209 by the FBI from October 1, 2005 through March 31, 2006; and (2) the SF-326 Semi-Annual Report of Payments Accepted from a Non-Federal Source for the period October 1, 2005 through March 31, 2006.

October 30, 2006

To: Janice M. Rogers  
Director, Departmental Ethics Office

From: Patrick W. Kelley  
Deputy Designated Agency Ethics Official (DDABO)

Re: 18 U.S.C. § 208 (b) (1) WAIVERS AND OPINIONS UNDER  
18 U.S.C. §§ 202-209, AND TRAVEL UNDER 31 U.S.C. § 1353

There were no waivers granted by the FBI under 18 U.S.C. § 208 (b) (1) from April 1, through September 30, 2006. Enclosed are two copies of: (1) the sixteen opinions issued 18 U.S.C. §§ 202-209 by the FBI from April 1, 2006, through September 30, 2006; and the SF-326 Semi-Annual Report of Payments Accepted from a Non-Federal Source for the period April 1, 2006, through September 30, 2006.

Enclosures (17)

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Dsp. Dir. \_\_\_\_\_  
ADD. Adm. \_\_\_\_\_  
ADD. Inv. \_\_\_\_\_  
Add. Dir. \_\_\_\_\_  
Asst. Secy. \_\_\_\_\_  
Chap. Inv. \_\_\_\_\_  
Mgmt. \_\_\_\_\_  
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Publ. Affs. \_\_\_\_\_  
Prof. Affs. \_\_\_\_\_  
Secy. \_\_\_\_\_

Mr. Kelley  
 

REF ID: (3)

BAIL ROOM

- ① ALU Library (Ethics - Program Matters)  
1 - ALU Tickler  
1 - 319V-HQ-A1487693

Hans Dehner  
to Dog

MEMORANDUM

October 26, 2005

To: Ms. Janice Rogers  
Director, Departmental Ethics Office

From: Patrick W. Kelley  
Deputy Designated Agency Ethics Official (DDAEAO)

Re: 18 U.S.C. § 208 (b) (1) WAIVERS AND OPINIONS UNDER  
18 U.S.C. §§ 202-209, AND TRAVEL UNDER 31 U.S.C. § 1353

As requested by your memorandum dated September 29, 2005, there were no waivers granted by the FBI under 18 U.S.C. § 208 (b) (1) from April 1, 2005, through September 30, 2005.

Also, enclosed are fourteen copies of opinions issued under 18 U.S.C. §§ 202-209 by the FBI from April 1, 2005, through September 30, 2005.

Lastly, the SF-326 Semi-Annual Report of Payments Accepted from a Non-Federal Source for the period April 1, 2005, through September 30, 2005, will be forwarded under separate cover. (We are awaiting its receipt from our Finance Division, which prepares it.)

Dep. Dir. \_\_\_\_\_ Enclosures (14) (2 copies each) b6  
ADD Adm. \_\_\_\_\_  
ADD Inv. \_\_\_\_\_  
Asst. Dir.: 1 - Mr. Kelley  
Adm. Servs. \_\_\_\_\_  
Crim. Inv. 1  
Ident. \_\_\_\_\_  
Intep. \_\_\_\_\_  
Info. \_\_\_\_\_  
Lab. \_\_\_\_\_  
Legal Coun. \_\_\_\_\_  
Rec. Mgmt. \_\_\_\_\_  
Tech. Servs. \_\_\_\_\_  
Training \_\_\_\_\_  
Cong. Affs. Off. \_\_\_\_\_  
Off. of EEO \_\_\_\_\_  
Off. Liaison & Int. Affs. \_\_\_\_\_  
Off. of Public Affs. \_\_\_\_\_  
Telephone Rm. \_\_\_\_\_  
Director's Secy. \_\_\_\_\_ MAIL ROOM

1 - ALU Library (Ethics/Travel/NonFederal Sources)  
1 - ALU Tickler  
1 - 319V-HQ-A1487693

April 27, 2005

To: Mr. Keith Simmons  
Acting Director, Departmental Ethics Office

From: Patrick W. Kelley  
Deputy Designated Agency Ethics Official (DDAEAO)

Re: 18 U.S.C. § 208 (b) (1) WAIVERS AND OPINIONS UNDER  
18 U.S.C. §§ 202-209, AND TRAVEL UNDER 31 U.S.C. § 1353

As requested by your memorandum dated April 4, 2005, there were no waivers granted by the FBI under 18 U.S.C. § 208 (b) (1) from October 1, 2004, through March 31, 2005.

Also, enclosed are nine copies of opinions issued under 18 U.S.C. §§ 202-209 by the FBI from October 1, 2004, through March 31, 2005.

Lastly, enclosed is the SF-326 Semi-Annual Report of Payments Accepted from a Non-Federal Source for the period October 1, 2004, through March 31, 2005.

Enclosures (7)

I - Mr. Kelley  
I [Redacted]  
I  
I  
I  
RLP:TRP (8)

b6  
I - ALU Library (Ethics/Travel/NonFederal Sources)  
I - ALU Tickler  
I - 66F-HQ-12011415-C

October 29, 2004

To: Mr. Stuart Frisch  
Acting Director, Departmental Ethics Office

From: Patrick W. Kelley  
Deputy Designated Agency Ethics Official (DDAEO)

Re: 18 U.S.C. § 208 (b) (1) WAIVERS AND OPINIONS UNDER  
18 U.S.C. §§ 202-209, AND TRAVEL UNDER 31 U.S.C. § 1353

As requested by your memorandum dated October 6, 2004, there were no waivers granted by the FBI under 18 U.S.C. § 208 (b) (1) from April 1, 2004, through September 30, 2004.

Also, enclosed are nine copies of opinions issued under 18 U.S.C. §§ 202-209 by the FBI from April 1, 2004, through September 30, 2004.

Lastly, the SF-326 Semi-Annual Report of Payments Accepted from a Non-Federal Source for the period April 1, 2004, through September 30, 2004 will be forthcoming by separate enclosure.

Enclosures (9)

1 - Mr. Kelley

Dep. Dir. 1 [Redacted]  
Chief of Staff [Redacted]  
Off. of Gen. Counsel [Redacted]  
Ass. Dir. [Redacted]  
Admin. Serv. [Redacted] RLP:TP (8)  
Ctterrorism \_\_\_\_\_  
Crim. Inv. \_\_\_\_\_  
CJIS \_\_\_\_\_  
Finance \_\_\_\_\_  
Info. Res. \_\_\_\_\_  
Insp. \_\_\_\_\_  
Inv. Serv. \_\_\_\_\_  
Lab. \_\_\_\_\_  
National Sec. \_\_\_\_\_  
OPR \_\_\_\_\_  
Off. of Public & Cong. Affs. \_\_\_\_\_  
Training \_\_\_\_\_  
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Director's Office \_\_\_\_\_

1 - ALU Library (Ethics/Travel/NonFederal Sources)

1 - ALU Tickler  
1 - 66F-HQ-12011415-C

[Redacted] (FDP)

b6

MAIL ROOM

FBI/DOJ

# Memorandum



To : Stuart Frisch, Acting Director Date 4/30/2003  
DOJ Ethics Office

From : Patrick W. Kelley  
Deputy Designated Agency Ethics Official (DDAEO)

Subject: 18 U.S.C. § 208(b)(1) WAIVERS AND OPINION UNDER  
18 U.S.C. §§ 202-209, AND ACCEPTANCE OF TRAVEL UNDER  
31 U.S.C. § 1353

As requested by your memorandum of April 7, 2003,  
enclosed are two redacted copies of waivers granted under 18  
U.S.C. § 208(b) and opinions issued under 18 U.S.C. §§ 202-209 by  
the FBI between October 1, 2002 and March 31, 2003.

- 1) Letter from DDAEO, dated 1/9/2003; and
- 2) Letter from DDAEO, dated 1/10/2003, w/encl.

Lastly, enclosed are two copies of the SF 326 form.  
Per prior discussion with DOJ it is no longer required that the  
supporting documentation accompany the SF 326.

Enclosures (2)

Dep. Dir. \_\_\_\_\_  
Chief of Staff \_\_\_\_\_  
Off. of Gen. \_\_\_\_\_  
Counsel \_\_\_\_\_ 1 - Acting SC, Acctg., FD  
Asst. Dir. \_\_\_\_\_ 1 - Mr. P. Kelley  
Admin. Serv. \_\_\_\_\_ 1 - [redacted]  
Catermorism \_\_\_\_\_ 1 - [redacted]  
Crim. Inv. \_\_\_\_\_  
CJIS \_\_\_\_\_  
Finance \_\_\_\_\_  
Info. Res. \_\_\_\_\_ 66F HQ-1201415-C ~14/2  
Insp. \_\_\_\_\_  
Inv. Serv. \_\_\_\_\_  
Lab. \_\_\_\_\_ DJJ:djj (10)  
National Sec. \_\_\_\_\_ *dj*  
OPR \_\_\_\_\_  
Off. of Public  
& Cong. Affs. \_\_\_\_\_  
Training \_\_\_\_\_  
Off. of EOA \_\_\_\_\_  
Director's Office \_\_\_\_\_

1 - [redacted]

b6  
1 - ALU TICKLER  
1 - ALU Library (Eth/Opinion  
re: 18 U.S.C. 202-209)  
*WA*

MAIL ROOM

FBUDOJ



U.S. Department of Justice

Federal Bureau of Investigation

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Office of the General Counsel

Washington, D.C. 20535

December 15, 2003

To: Mr. Stuart Frisch  
Acting Director, Departmental Ethics Office

From: Patrick W. Kelley *PWLC*  
Deputy Designated Agency Ethics Official (DDAEO)

Re: 18 U.S.C. § 208 (b) (1) WAIVERS AND OPINIONS UNDER  
18 U.S.C. §§ 202-209, AND TRAVEL UNDER 31 U.S.C. § 1353

As requested by your memorandum dated September 30, 2003, there were no waivers granted by the FBI under 18 U.S.C. § 208 (b) (!) from April 1, 2003, through September 30, 2003.

Also, enclosed are seven copies of opinions issued under 18 U.S.C. §§ 202-209 by the FBI from April 1, 2003, through September 30, 2003.

Lastly, enclosed is the SF-326 Semi-Annual Report of Payments Accepted from a Non-Federal Source for the period April 1, 2003 to September 30, 2003.

Enclosures (2)

## Memorandum



To : Ms. Mary Braden, Director Date 05/02/2002  
DOJ Ethics Office

From : Mr. Patrick W. Kelley  
Deputy Designated Agency Ethics Official (DDAEO)

Subject : 18 U.S.C. § 208(b)(1) WAIVERS, OPINIONS UNDER  
18 U.S.C. §§ 202-209, AND ACCEPTANCE OF TRAVEL  
31 U.S.C. § 1353

As requested by your memorandum of April 19, 2002, the FBI reports no waivers were granted by the FBI under 18 U.S.C. § 208(b) between October 1, 2001 and March 31, 2002. Enclosed are redacted copies of opinions issued under 18 U.S.C. §§ 202-209 by the FBI from October 1, 2001 through March 31, 2002.

- 1) Note from DDAEO, dated 11/8/2001
  - 2) Note from DDAEO, dated 11/8/2001;
  - 3) Memo from Parkinson, dated 11/9/2001;
  - 4) Note from DDAEO, dated 11/9/2001;
  - 5) Note from DDAEO, dated 11/15/2001;

1 - [REDACTED]  
1 - L. Parkinson  
1 - P. Kelley  
1 - [REDACTED]  
1 - [REDACTED]  
1 - ALU Tickler  
1 - ALU Library (Eth/Opinion re:8 U.S.C. 202-209)

b6

66F-HQ-1201415-C

PWK:djj (10)

**APPROVED:** CIO, Int. \_\_\_\_\_ Inspector \_\_\_\_\_ Training \_\_\_\_\_  
CJS \_\_\_\_\_ Laboratory \_\_\_\_\_ Off. of EEO \_\_\_\_\_  
Finance \_\_\_\_\_ National Sec. \_\_\_\_\_ Affairs \_\_\_\_\_  
Gen. Counsel *ATC* \_\_\_\_\_ OPR \_\_\_\_\_ Off. of Public &  
Deputy Director \_\_\_\_\_ Info. Res. \_\_\_\_\_ Personnel \_\_\_\_\_ Comm. Atts.

Memorandum to Ms. Mary Braden, Director, DOJ Ethics Office  
Re: 18 U.S.C. § 208(b)(1) Waiver and Opinion Under  
18 U.S.C. §§ 202-209, and Acceptance of Travel Under  
31 U.S.C. § 1353

- 6) EC dated 12/05/2001, RE:... IMPARTIALITY IN PERFORMING OFFICIAL DUTIES; CONFLICT OF INTEREST DETERMINATION;
- 7) EC dated 01/04/2002, RE: ADMINISTRATIVE LAW UNIT CORRESPONDENCE; VRE OFFER;
- 8) Note from DDAEO, dated 1/23/2002;
- 9) Memo from DDAEO, dated 1/28/2002;
- 10) Memo, dated 1/29/2002;
- 11) Letter from DDAEO, dated 1/31/2001;
- 12) Letter from DDAEO, dated 2/6/2001;
- 13) Letter from DDAEO, dated 3/6/2002; and
- 14) Memo from DDAEO, dated 3/7/2002.

Lastly, enclosed are copies of the SF 326 and the following memoranda reflecting instances in which we accepted travel reimbursement from non-federal sources that totaled more than \$250 per event for the period between October 1, 2001 and March 31, 2002.

- 1) [REDACTED] Travel Dates: 6/10-12/2001;
- 2) [REDACTED] Travel Dates: 8/15-17/2001;
- 3) [REDACTED] Travel Dates: 11/8-11/2001;
- 4) [REDACTED] Travel Dates: 11/14-18/2001;
- 5) [REDACTED] Travel Dates: 11/13-25/2001;

b6

Memorandum to Ms. Mary Braden, Director, DOJ Ethics Office  
Re: 18 U.S.C. § 208(b)(1) Waiver and Opinion Under  
18 U.S.C. §§ 202-209, and Acceptance of Travel Under  
31 U.S.C. § 1353

- 6) [REDACTED]  
Travel Dates: 12/7-13/2001;
- 7) [REDACTED]  
Travel Dates: 1/26-31/2002;
- 8) [REDACTED]  
Travel Dates: 2/23-3/4/2002;
- 9) [REDACTED]  
Travel Dates: 3/2-6/2002;
- 10) [REDACTED]  
Travel Dates: 3/2-5/2002;
- 11) [REDACTED]  
Travel Dates: 3/7-19/2002; and
- 12) [REDACTED]  
Travel Dates: 11/25-27/2001.

b6

Enclosūres (26)

# Memorandum



To : Ms. Mary Braden, Director Date 04/30/01  
DOJ Ethics Office

From : Mr. Patrick W. Kelley  
Deputy Designated Agency Ethics Official (DDAEO)

Subject: 18 U.S.C. § 208 (b) (1) WAIVERS, OPINIONS UNDER  
18 U.S.C. §§ 202-209, AND ACCEPTANCE OF TRAVEL UNDER  
31 U.S.C. § 1353

As requested by your memorandum of April 9, 2001,  
enclosed are the following redacted copies of waivers granted by  
the FBI under 18 U.S.C. § 208(b) from October 1, 2000, through  
March 30, 2001:

- 1) Letter from DDAEO, dated 3/9/01;
- 2) Letter from DDAEO, dated 3/23/01.

Also enclosed are redacted copies of opinions issued  
under 18 U.S.C. §§ 202-209 by the FBI from October 1, 2000,  
through March 30, 2001:

- 1) EC dated 3/23/01, RE: APPEARANCE OF A CONFLICT OF  
INTERESTS;
- 2) EC dated 3/13/01, RE: IMPARTIALITY IN PERFORMING  
OFFICIAL DUTIES;
- 3) EC dated 3/5/01, RE: CONFLICT OF INTEREST;
- 4) Letter from DDAEO, dated 2/21/01;
- 5) Memo from DDAEO, dated 2/20/01;
- 6) EC dated 2/16/01, RE: WG-6, MOTOR VEHICLE OPERATOR  
MAIL SERVICES UNIT;

1 [REDACTED]  
1 - L. Parkinson  
1 - P. Kelley  
1 - [REDACTED]  
1 - [REDACTED]

b6

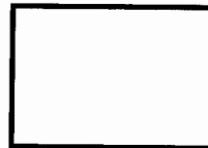
Duo Dr \_\_\_\_\_  
Chair of \_\_\_\_\_  
Staff \_\_\_\_\_  
Off of Govt \_\_\_\_\_  
Courtroom \_\_\_\_\_  
Ass't De \_\_\_\_\_  
Com. w/o \_\_\_\_\_  
GCR \_\_\_\_\_  
Finance \_\_\_\_\_  
Info Res \_\_\_\_\_  
HR \_\_\_\_\_  
IAD \_\_\_\_\_  
Intergov'l \_\_\_\_\_  
Personnel \_\_\_\_\_  
Training \_\_\_\_\_  
Other \_\_\_\_\_  
On X-Ref'd \_\_\_\_\_  
In Ref'd \_\_\_\_\_  
L/Cong. Atty \_\_\_\_\_  
Dissenting Opn \_\_\_\_\_  
MAIL REC'D \_\_\_\_\_

66F-HQ-1201415-C

PWK:dmd(11)

DMG

1 - ALU Tickler  
① - ALU Library (Eth/ Opinion re:  
18 U.S.C. 202-209)



FBI/DOJ

Memorandum to Ms. Mary Braden, Director, DOJ Ethics Office  
Re: 18 U.S.C. § 208(b)(1) Waiver and Opinion Under  
18 U.S.C. §§ 202-209, and Travel Under 31 U.S.C. § 1353

- 7) Note dated 2/2/01, RE: CFE BUSINESS OPPORTUNITY;
- 8) EC dated 1/30/01, RE: PARTICIPATION IN OUTSIDE ORGANIZATIONS;
- 9) EC dated 1/24/01, RE: PARTICIPATION IN OUTSIDE ORGANIZATIONS;
- 10) Letter from DGC, dated 1/24/01;
- 11) EC dated 1/18/01, RE: PARTICIPATION OF ADIC IN VARIOUS OUTSIDE ORGANIZATIONS;
- 12) EC dated 1/18/01, RE: ETHICS MATTERS;
- 13) EC dated 12/26/00, RE: CONFLICT OF INTEREST IN ADMINISTRATIVE REPRESENTATION OF THE FBI IN [REDACTED] b6  
[REDACTED] CLASS ACTION BY ATTORNEYS ASSIGNED TO THE EMPLOYMENT LAW UNITS;
- 14) Letter from DGC, dated 12/5/00;
- 15) Letter from DDAEO, dated 11/27/00;
- 16) Note from DDAEO, dated 10/31/00;
- 17) Letter from DDAEO, dated 10/17/00.

Lastly, enclosed are copies of the following memoranda reflecting instances in which we accepted travel reimbursement from non-federal sources that totaled more than \$250 per event for the period between April 1, 2000, and September 30, 2000.

- 1) [REDACTED] Travel Dates: 9/27 - 29/00;
- 2) [REDACTED] Travel Dates: 9/27 - 29/00; b6
- 3) [REDACTED] Travel Dates: 9/26 - 27/00;
- 4) [REDACTED] Travel Dates: 9/21 - 23/00;

Memorandum to Ms. Mary Braden, Director, DOJ Ethics Office  
Re: 18 U.S.C. § 208(b)(1) Waiver and Opinion Under  
18 U.S.C. §§ 202-209, and Travel Under 31 U.S.C. § 1353

- 5) [REDACTED] Travel Dates: 10/5 - 6/00;
- 6) [REDACTED] Travel Dates: 10/15 - 19/00;
- 7) [REDACTED] Travel Dates: 10/16 - 21/00;
- 8) [REDACTED] Travel Dates: 10/22 - 25/00;
- 9) [REDACTED] Travel Dates: 10/26 - 30/00;
- 10) [REDACTED] Travel Dates: 10/28 - 11/1/00;
- 11) [REDACTED] Travel Dates: 11/1 - 3/00; b6
- 12) [REDACTED] Travel Dates: 11/1 - 3/00;
- 13) [REDACTED] Travel Dates: 11/9 - 11/00;
- 14) [REDACTED] Travel Dates: 11/15 - 18/00;
- 15) [REDACTED] Travel Dates: 11/15 - 18/00;
- 16) [REDACTED] Travel Dates: 11/14 - 18/00;
- 17) [REDACTED] Travel Dates: 11/16 - 18/00;
- 18) [REDACTED] Travel Dates: 11/14 - 18/00;
- 19) [REDACTED] Travel Dates: 11/14 - 18/00;

WAIVERS UNDER 18 U.S.C. § 208(B)

# Memorandum



To : Ms.. Mary Braden, Director DOJ Ethics Office Date 11/2/01

From : Patrick W. Kelley  
Deputy Designated Agency Ethics Official (DDAEO)

Subject: 18 U.S.C. § 208(b)(1) WAIVERS AND OPINIONS UNDER  
18 U.S.C. §§ 202-209, AND ACCEPTANCE OF TRAVEL UNDER  
31 U.S.C. § 1353

As requested by your memorandum of October 2, 2001, enclosed are the following redacted copies of waivers granted by the FBI under 18 U.S.C. § 208(b) from April 1, 2001, through September 30, 2001.

1) Letter from DDAEO, dated 5/9/01.

Also enclosed are redacted copies of opinions issued under 18 U.S.C. §§ 202-209 by the FBI from April 1, 2001, through September 30, 2001.

1) Note from Deputy General Counsel (DGC), dated 8/9/01;

2) Note from DGC, dated 5/23/01

3) Note from DGC, dated 7/23/01;

4) Letter from DDAEO, dated 5/16/01;

5) Note from DDAEO, dated 5/4/01;

6) Memo from DGC, dated 5/23/01;

1 - [Redacted]  
1 - L. Parkinson  
1 - P. Kelley  
1 - [Redacted]  
1 - [Redacted]

b6

1 - ALU. Tickler  
1 - ALU Library  
(Eth/Opinion re:  
18 U.S.C. 202-209)

Dep. Dir. \_\_\_\_\_  
Chief of Staff \_\_\_\_\_  
Off of Gen  
counsel \_\_\_\_\_  
Ass. Dir. \_\_\_\_\_  
Admin Serv. \_\_\_\_\_ 66F-HQ-1201415-C  
Counselor \_\_\_\_\_  
Crim. Inv. \_\_\_\_\_ PWK:djj (10)  
Finance \_\_\_\_\_  
Info. Res. \_\_\_\_\_  
Insap \_\_\_\_\_  
Inv. Serv. \_\_\_\_\_  
Lab. \_\_\_\_\_  
National Sec. \_\_\_\_\_  
OPR \_\_\_\_\_  
Off. of Public  
Rel. Cong. Affs. \_\_\_\_\_  
Training \_\_\_\_\_  
Off. of EEOA \_\_\_\_\_  
Director's Office \_\_\_\_\_

APPROVED: Crim. Inv. \_\_\_\_\_ Inspection. \_\_\_\_\_ Training. \_\_\_\_\_  
Labs/Sci. \_\_\_\_\_ Off. of CFO \_\_\_\_\_  
Finance \_\_\_\_\_ Behavior. 3% \_\_\_\_\_ Admin. \_\_\_\_\_  
Director \_\_\_\_\_ Gen. Counsel \_\_\_\_\_ O.A. \_\_\_\_\_ O.L. of Public Rel. \_\_\_\_\_  
Deputy Director \_\_\_\_\_ Info. Res. \_\_\_\_\_ Personnel \_\_\_\_\_ Cong. Rel. \_\_\_\_\_

MAIL ROOM D

FBI/DOJ

Memorandum to Ms. Mary Braden, Director, DOJ Ethics Office  
Re: 18 U.S.C. § 208(b)(1) Waiver and Opinion Under  
18 U.S.C. §§ 202-209, and Acceptance of Travel Under  
31 U.S.C. § 1353

- 7) Memo from DGC, dated 5/1/01;
- 8) Letter from DDAEO, dated 8/8/01;
- 9) Note from DDAEO, dated 4/16/01;
- 10) EC dated 8/27/01, RE: CJIS DIVISION COMMUNICATIONS AND TECHNOLOGY BRANCH; ADMINISTRATIVE MATTERS;
- 11) Note from DDAEO, dated 4/2/01;
- 12) Memo from DDAEO, dated 4/17/01;
- 13) Letter from DDAEO, dated 7/3/01; and
- 14) Note dated 8/17/01, RE: SERVICE ON BOARD OF BOY SCOUTS OF AMERICA.

Lastly, enclosed are copies of the SF 326 and the following memoranda reflecting instances in which we accepted travel reimbursement from non-federal sources that totaled more than \$250 per event for the period between April 1, 2001, and September 30, 2001:

- 1) [REDACTED] Travel Dates: 11/11 - 15/00;
- 2) [REDACTED] Travel Dates: 3/5 - 7/01;
- 3) [REDACTED] Travel Dates: 3/24 - 31/01;
- 4) [REDACTED] Travel Dates: 4/1 - 6/01;
- 5) [REDACTED] Travel Dates: 4/1 - 6/01;
- 6) [REDACTED] Travel Dates: 4/8 - 13/01;

b6

Memorandum to Ms. Mary Braden, Director, DOJ Ethics Office  
Re: 18 U.S.C. § 208(b)(1) Waiver and Opinion Under  
18 U.S.C. §§ 202-209, and Acceptance of Travel Under  
31 U.S.C. § 1353

- 7) [REDACTED] Travel Dates: 4/9 - 11/01;
- 8) [REDACTED] Travel Dates: 4/19 - 22/01;
- 9) [REDACTED] Travel Dates: 4/26 - 27/01;
- 10) [REDACTED] Travel Dates: 4/29/01 - 5/1/01;
- 11) [REDACTED] Travel Dates: 5/7 - 10/01;
- 12) [REDACTED] Travel Dates: 5/10 - 12/01;
- 13) [REDACTED] Travel Dates: 5/14 - 16/01; b6
- 14) [REDACTED] Travel Dates: 5/15 - 19/01;
- 15) [REDACTED] Travel Dates: 5/20 - 23/01;
- 16) [REDACTED] Travel Dates: 5/30 - 31/01;
- 17) [REDACTED] Travel Dates: 6/9 - 12/01;
- 18) [REDACTED] Travel Dates: 6/10 - 12/01;
- 19) [REDACTED] Travel Dates: 6/19 - 21/01;
- 20) [REDACTED] Travel Dates: 6/20 - 22/01;

Memorandum to Ms. Mary Braden, Director, DOJ Ethics Office  
Re: 18 U.S.C. § 208(b)(1) Waiver and Opinion Under  
18 U.S.C. §§ 202-209, and Acceptance of Travel Under  
31 U.S.C. § 1353

- 21) [REDACTED] Travel Dates: 7/15 - 18/01;  
22) [REDACTED] Travel Dates: 8/2 - 3/01  
23) [REDACTED] Travel Dates: 8/4 - 7/01;  
24) [REDACTED] Travel Dates: 8/10 - 12/01;  
25) [REDACTED] Travel Dates: 8/20 - 24/01; b6  
26) [REDACTED] Travel Dates: 8/21 - 26/01;  
27) [REDACTED] Travel Dates: 9/5 - 7/01;  
28) [REDACTED] Travel Dates: 9/8 - 11/01; and  
29) [REDACTED] Travel Date: 8/29/01.

Enclosures, (45)

## **Memorandum**



To : Ms. Mary Braden, Director DOJ Ethics Office Date 5/1/00

From : Mr. Patrick W. Kelley Deputy Designated Agency Ethics Official (DDAEO).

Subject: 18 U.S.C. § 208(b)(1) WAIVERS AND OPINIONS UNDER  
18 U.S.C. §§ 202-209, AND TRAVEL UNDER 31 U.S.C. § 1353

As requested by your memorandum of April 4, 2000, enclosed are the following redacted copies of opinions issued under 18 U.S.C. Sections 202-209 by the FBI from October 1, 1999, and March 31, 2000.

- 1) Letter from DDAEO dated 10/4/99;
  - 2) Letter from DDAEO, dated 10/20/99;
  - 3) Note from DDAEO, dated 11/17/99;
  - 4) Note from DDAEO, dated 11/24/99;
  - 5) Note from Deputy General Counsel (DGC), dated 11/30/99;
  - 6) Letter from DGC, dated 12/15/99;
  - 7) Note from DDAEO, dated 12/23/99;
  - 8) EC dated 12/23/99, Re: REQUEST FOR RECONSIDERATION OF WAIVER PURSUANT TO TITLE 18 U.S.C. SECTION 208;

1 - [REDACTED] Rm. 6032  
1 - Mr. L. Parkinson, Rm. 7427  
1 - Mr. P. Kelley, Rm. 7159  
1 - [REDACTED] Rm. 7338  
1 - [REDACTED] Rm. 7338  
1 - ALU Tickler  
2 - ALU Library (Eth/Opinion re: 18 U.S.C.202-209)  
✓Eth/Travel/ Funds from non-fed. source)

b6

Dop. Dir.  
Chief of  
Staff  
Off. of Gen.  
Counsel  
Asst. Dir.  
Crim. Inv.  
CJIS  
Finance  
Info. Ret.  
Insp.  
Lab.  
National Sec.  
Personnel  
Training  
Off. of EEOA  
Off. of Public  
& Cong. Atts.  
Director's Office

66F-HQ-1201415-C

DMD; dnd (10)

154

MAIL ROOM

**APPROVED:** Crim. Inv. \_\_\_\_\_ Inspection \_\_\_\_\_ Training \_\_\_\_\_  
CLS \_\_\_\_\_ Laboratory \_\_\_\_\_ Off. of EEO  
Finance \_\_\_\_\_ Human Sec. \_\_\_\_\_ Affairs \_\_\_\_\_  
Director \_\_\_\_\_ Gen. Counsel *SP/PL* CPR \_\_\_\_\_ Off. of Public &  
Deputy Director \_\_\_\_\_ Ed. Rep. \_\_\_\_\_ Personnel \_\_\_\_\_ Cong. Affs.

Driver 7338

FBI/DOJ

Memorandum to Ms. Mary Braden, Director, DOJ Ethics Office  
Re: 18 U.S.C. § 208(b)(1) Waiver and Opinion Under  
18 U.S.C. §§ 202-209, and Travel Under 31 U.S.C. § 1353

- 9) Letter from DGC, dated 1/12/00;
- 10) Note to DGC, dated 1/28/00;
- 11) EC dated 2/15/00, RE: REQUEST TO SERVE ON BOARD OF DIRECTORS;
- 12) EC dated 2/16/00, RE: CRIMINAL JUSTICE INFORMATION SERVICES (CJIS) DIVISION AUTOMATED OPERATIONS SUPPORT SECTION MATTERS - POST GOVERNMENT EMPLOYMENT BY A FORMER CJIS DIVISION EMPLOYEE;
- 13) Letter from DDAEO, dated 2/16/00;
- 14) EC dated 2/25/00, RE: POSSIBLE CRIMINAL MISCONDUCT BY FORMER SAC;
- 15) EC dated 3/23/00, RE: OUTSIDE EMPLOYMENT FOR CJIS DIVISION EMPLOYEES OPERATING FIREARMS BUSINESSES;

Also enclosed are copies of the following memoranda reflecting instances in which we accepted travel reimbursement from non-federal sources that totaled more than \$250 per event for the period between October 1, 1999, and March 31, 2000:

- 1) [REDACTED]  
Dates: 10/13 - 23/99;
- 2) [REDACTED]  
Dates: 10/8 - 17/99;
- 3) [REDACTED]  
Dates: 10/21 - 25/99;
- 4) [REDACTED]  
Dates: 10/23 - 28/99;
- 5) [REDACTED]  
Dates: 10/27 - 28/99;
- 6) [REDACTED]  
Dates: 10/29 - 31/99;

b6

Memorandum to Ms. Mary Braden, Director, DOJ Ethics Office  
Re: 18 U.S.C. § 208(b)(1) Waiver and Opinion Under  
18 U.S.C. §§ 202-209, and Travel Under 31 U.S.C. § 1353

- 7) [REDACTED]  
Dates: 10/29/99 - 11/3/99;
- 8) [REDACTED]  
Dates: 10/31/99 - 11/2/99;
- 9) [REDACTED]  
Dates: 11/1 - 4/1/99;
- 10) [REDACTED]  
Dates: 11/6 - 10/99;
- 12) [REDACTED]  
Dates: 11/5 - 10/99;
- 13) [REDACTED]  
Dates: 11/5 - 9/99;
- 14) [REDACTED]  
Dates: 11/12 - 18/99;
- 15) [REDACTED]  
Dates: 11/15 - 20/99;
- 16) [REDACTED]  
Dates: 11/16 - 20/99;
- 17) [REDACTED]  
Dates: 11/17 - 20/99;
- 18) [REDACTED]  
Dates: 11/17 - 20/99;
- 19) [REDACTED]  
Dates: 11/17 - 20/99;
- 20) [REDACTED]  
Dates: 11/18 - 20/99;
- 21) [REDACTED]  
Dates: 11/16 - 20/99;
- 22) [REDACTED]  
Dates: 1/10 - 12/00;

b6

Memorandum to Ms. Mary Braden, Director, DOJ Ethics Office  
Re: 18 U.S.C. §.208(b)(1) Waiver and Opinion Under  
18 U.S.C. §§ 202-209; and Travel Under 31 U.S.C. § 1353

- 23) [REDACTED]  
Dates: 1/14/00;
- 24) [REDACTED] b6  
Dates: 1/23 - 24/00;
- 25) [REDACTED]  
Dates: 1/23 - 26/00;
- 26) [REDACTED]  
Dates: 2/20 - 24/00;
- 27) [REDACTED]  
Dates: 2/22 - 26/00;
- 28) [REDACTED]  
Dates: 2/23 - 27/00;
- 29) [REDACTED]  
Dates: 3/10 - 17/00;
- 30) [REDACTED]  
Dates: 3/21 - 24/00;
- 31) [REDACTED]  
16 Dates: 3/22 - 25/00;

Enclosures (4b)

NOTE: This memorandum responds to a 4/4/00, memorandum to the Deputy Designated Agency Ethics Officials from Mary Braden, Director, Departmental Ethics Office, JMD (copy attached), requesting us to report travel reimbursements from non-federal sources and Title 18 U.S.C. Sections 202-209 waivers or opinions issued during the period of October 1, 1999, to March 31, 2000.

## **Memorandum**



To : Ms. Mary Braden, Director Date 10/23/00  
DOJ Ethics Office

From : Mr. Patrick W. Kelley  
Deputy Designated Agency Ethics Official (DDAEAO)

Subject: 18 U.S.C. § 208(b)(1) WAIVERS, OPINIONS UNDER  
18 U.S.C. §§ 202-209, AND ACCEPTANCE OF TRAVEL UNDER  
31 U.S.C. § 1353

As requested by your memorandum of October 2, 2000, enclosed are the following redacted copies of opinions issued under 18 U.S.C. Sections 202-209 by the FBI from April 1, 2000, and September 30, 2000.

- 1) Routing Slip from DDAEO dated 4/18/00;
  - 2) Note from DDAEO, dated 6/21/00, with memo from DAD, IRD dated 6/20/00;
  - 3) EC dated 6/23/00, RE: REQUEST FOR AUTHORIZATION FOR OUTSIDE EMPLOYMENT;
  - 4) Note from DDAEO, dated 6/23/00;
  - 5) Letter from DDAEO, dated 7/5/00;
  - 6) EC dated 8/23/00, RE: PERSONNEL MATTER - REQUEST FOR DETERMINATION FROM OGC;
  - 7) Note from DDAEO, dated 8/28/00;
  - 8) Note from DDAEO, dated 8/31/00;
  - 9) EC dated 9/14/00, RE: GIFTS RECEIVED FROM OUTSIDE VENDORS IN RANDOM DRAWINGS;
  - 10) Note from DDAEO, dated 9/28/00.

1 - [REDACTED]  
1 - L. Parkinson  
1 - P. Kelley  
1 - [REDACTED]  
1 - L. Havn

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Dep. Dir 1 - L. Hayn  
Chief of Staff 1  
Off. of Govt PWK  
Controller  
Asst. Dir 1 66F-HQ-1201415-C  
Com. Inv. ....  
CJS .....  
Finance PWK:cmd (10)  
Info. Rels .....  
IRD .....  
LCD .....  
Major .....  
National Intel .....  
Personnel .....  
Planning .....  
PR in SECDA .....  
ID of Orgs .....  
v. Com. AF .....  
Other Agencies .....  
PWK

- ALU Library (Eth/ Opinion re:  
18 U.S.C. 202-209)

Memorandum to Ms. Mary Braden, Director, DOJ Ethics Office  
Re: 18 U.S.C. § 208(b)(1) Waiver and Opinion Under  
18 U.S.C. §§ 202-209, and Travel Under 31 U.S.C. § 1353

Also enclosed are copies of the following memoranda reflecting instances in which we accepted travel reimbursement from non-federal sources that totaled more than \$250 per event for the period between April 1 , 2000, and September 30, 2000.

- 1) [REDACTED] Travel Dates: 3/25 - 28/00;
- 2) [REDACTED] Travel Dates: 3/31/00 - 4/2/00;
- 3) [REDACTED] Travel Dates: 4/3 - 5/00;
- 4) [REDACTED] Travel Dates: 4/5 - 7/00;
- 5) [REDACTED] Travel Dates: 4/10 - 11/00;
- 6) [REDACTED] Travel Dates: 5/3 - 6/00;
- 7) [REDACTED] Travel Dates: 5/7 - 7/00;
- 8) [REDACTED] Travel Dates: 5/8 - 10/00;
- 9) [REDACTED] Travel Dates: 5/11 - 14/00;
- 10) [REDACTED] Travel Dates: 5/15 - 17/00;
- 12) [REDACTED] Travel Dates: 5/17 - 21/00;
- 13) [REDACTED] Travel Dates: 5/17 - 21/00;
- 14) [REDACTED] Travel Dates: 5/26/00;
- 15) [REDACTED] Travel Dates: 5/29 - 31/00;

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Memorandum to Ms. Mary Braden, Director, DOJ Ethics Office  
Re: 18 U.S.C. § 208(b)(1) Waiver and Opinion Under  
18 U.S.C. §§ 202-209, and Travel Under 31 U.S.C. § 1353

- 16) [REDACTED]  
Travel Dates: 6/4 - 6/00;
- 17) [REDACTED]  
Travel Dates: 6/7 - 10/00;
- 18) [REDACTED]  
Travel Dates: 6/13 - 14/00;
- 19) [REDACTED]  
Travel Dates: 6/13 - 14/00;
- 20) [REDACTED]  
Travel Dates: 6/21 - 24/00;
- 21) [REDACTED]  
Travel Dates: 6/24 - 28/00;
- 22) [REDACTED]  
Travel Dates: 6/26 - 29/00;
- 23) [REDACTED]  
Travel Dates: 7/2 - 6/00;
- 24) [REDACTED]  
Travel Dates: 7/3 - 6/00;
- 25) [REDACTED]  
Travel Dates: 7/13 - 15/00;
- 26) [REDACTED]  
Travel Dates: 7/10 - 11/00;
- 27) [REDACTED]  
Travel Dates: 7/15 - 19/00;
- 28) [REDACTED]  
Travel Dates: 7/17 - 21/00;
- 29) [REDACTED]  
Travel Dates: 7/20 - 22/00;
- 30) [REDACTED]  
Travel Dates: 7/20 - 22/00;

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Memorandum to Ms. Mary Braden, Director, DOJ Ethics Office  
Re: 18 U.S.C. § 208(b)(1) Waiver and Opinion Under  
18 U.S.C. §§ 202-209, and Travel Under 31 U.S.C. § 1353

- 31) [REDACTED] Travel Dates: 7/31/00 - 8/3/00;  
32) [REDACTED] Travel Dates: 7/31/00 - 8/3/00;  
33) [REDACTED] Various Travel Dates: 6/24/00 - 8/3/00;  
34) [REDACTED] Travel Dates: 9/5 - 7/00;  
35) [REDACTED] Travel Dates: 9/18 - 20/00;  
36) [REDACTED] Travel Dates: 9/21 - 22/00.

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Enclosures (46)

LIMITED OFFICIAL USE

May 16, 2000

Mr. Bobby E. Dies  
Federal Bureau of Investigation  
Washington, DC 20535

434

SOURCE SELECTION SENSITIVE INFORMATION -- LIMITED OFFICIAL USE

Dear Mr. Dies:

This letter responds to your request for a waiver pursuant to 18 U.S.C. § 208(b)(1) to allow you to participate as Assistant Director, Information Resources Division, in managing the performance of two awarded contracts issued as part of the FBI's Trilogy Program. These contracts affect your financial interests, which arise from your financial interests in International Business Machines, Inc. ("IBM").

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You have advised this Office that you currently hold approximately [redacted]

For the purposes of this waiver request, the Governmental duties you have that conflict with your financial interests are those as the senior FBI official directly responsible for upgrading the FBI's technology. While you are not the contracting officer and the FBI is not the contracting agency or responsible for administering either contract<sup>1</sup>, the FBI, as the requiring activity, will be closely involved with the contracting officer on the myriad of issues that will arise during the performance of these contracts. In addition, while the contracts address different aspects of the upgrade initiative, the objectives served by the two contracts are parts of an integrated whole. Therefore, action taken on one component could have consequences on the other.

The prime contractor for the Transportation Network and Information Presentation Components ("TN/IPC") is DynCorp. The prime contractor for User Applications Component ("UAC") will be

Dep. Dir. \_\_\_\_\_  
ADD. Adm. \_\_\_\_\_  
ADD. Inv. \_\_\_\_\_  
Asst. Dir.: 1 - [redacted]  
Adm. Servs. \_\_\_\_\_  
Crim. Inv. 1 - Mr. P. Kelley  
Ident. \_\_\_\_\_  
Ins. \_\_\_\_\_  
Instl. \_\_\_\_\_  
Lab. REC(12)  
Legal Coun. \_\_\_\_\_  
Rec. Mgmt. \_\_\_\_\_  
Tech. Servs. \_\_\_\_\_  
Training \_\_\_\_\_

Cong. Affs. Off. \_\_\_\_\_  
Off. of EEO \_\_\_\_\_  
Off. Liaison & Int. Affs. \_\_\_\_\_  
Int. Affs. Services Administration.  
Off. of Public Affs. \_\_\_\_\_  
Telephone Rm. \_\_\_\_\_  
Director's Secy MAIL ROOM ☐

1 [redacted] ✓  
1 - Mr. R. Covle [redacted]  
1 - ALU Library (Ethics/Conflicts  
of Interests/Waiver)  
1 - ALU Tickler  
66F-HQ-1201415-C - 895

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APPROVED:

Director  
Deputy Director

Crim. Inv. \_\_\_\_\_ Inspection \_\_\_\_\_ Training \_\_\_\_\_  
GHS \_\_\_\_\_ Laboratory \_\_\_\_\_ Off. of EEO \_\_\_\_\_  
Finance \_\_\_\_\_ National Secy \_\_\_\_\_ AFM \_\_\_\_\_  
Gen. Counsel \_\_\_\_\_ Info. Rep. \_\_\_\_\_ Personnel \_\_\_\_\_  
Dir. \_\_\_\_\_ G.H. Officer & \_\_\_\_\_  
Dir. \_\_\_\_\_ Dir. \_\_\_\_\_ Dir. \_\_\_\_\_  
Dir. \_\_\_\_\_ Dir. \_\_\_\_\_ Dir. \_\_\_\_\_  
Dir. \_\_\_\_\_ Dir. \_\_\_\_\_ Dir. \_\_\_\_\_

Mr. Bobby E. Dier

SAIC. Each prime contractor has a number of subcontractors and suppliers. IBM is one of five subcontractors of SAIC on the UAC contract.

This effect on IBM gives you a disqualifying financial interest in the SAIC contract, and, a potential disqualifying financial interest in the DynCorp contract. Under 18 U.S.C. §208(a), Federal employees may not participate personally and substantially in any particular matter that would have a direct and predictable effect on their financial interests or those of certain others, such as their spouses. Thus, you would be disqualified from acting on issues relating to the performance of the SAIC contract, and, in an abundance of caution, the DynCorp contract.

Nevertheless, under 18 U.S.C. §208(b)(1), I may waive the prohibition of 18 U.S.C. §208(a) where I determine that the employee's financial interest in the matter "is not so substantial as to be deemed likely to affect the integrity of the services which the Government may expect" from the employee. I have been delegated authority by the Director, FBI, to make this determination.

An important fact here is that the solicitations that produced these contracts used performance-based specifications. As a result, all significant decisions regarding the nature, scope, and direction of the Trilogy Program have been determined by the terms of the contracts, including how much work of what kind and value is to be performed by which entity. While minor deviations from the terms of the awarded contracts are possible, significant changes would require negotiation and mutual agreement of the parties and issuance of change orders by the GSA contracting officer. Finally, as IBM is participating in the UAC contract as a subcontractor, as a legal matter, the Government would not be dealing directly with IBM. Rather, significant discussions about the work involving IBM would be with SAIC and involve the GSA contracting officer.

Even though you participated in the selection of the contractor for the TN/ICP under the terms of an individual waiver under 18 U.S.C. § 208(b), I note that because of the nature of IBM's involvement in the UCA procurement, you recused yourself from participating in it because of the importance of not prejudicing any bidder's solution, even though four of the five offerors included IBM among the subcontractors and vendors that they were offering.

Mr. Bobby E. Dif

I note that the DynCorp contract is valued at \$161.9 million and the SAIC contract at \$88.6 million. The portion of the work that the SAIC contract assigns to IBM, programming services, is priced at \$7.6 million. The Consolidated Statement of Earnings for IBM Corporation and its subsidiary companies reports that IBM's revenue during 2000 totaled \$88 billion, \$33 billion of which was attributed to "global services," the category that would include the instant programming services.

Finally, I note that, although recently hired, you have been a critical player in creating a credible upgrade program that overcame significant Congressional reservations about the ability of the FBI to competently manage this badly need initiative. Those Congressional reservations had precluded the release of funds appropriated for the upgrade initiative. Your complete removal from this initiative would throw considerable doubt on the FBI's ability to achieve the program's goals and might occasion significant delays in achieving them.

These facts lead me to conclude that your participation in any aspect of the performance of the SAIC contract that does not require the issuance of a change order or otherwise alter the terms, conditions, or price of the contract is unlikely to affect the integrity of your services in these matters. Accordingly, I hereby grant a waiver under 18 U.S.C. §208(a) with regard to your participation in matters involving the performance of the SAIC and DynCorp contracts but only to the extent that the issue does not reasonably anticipate the issuance of a change order or other modification of the price of either of the awarded contracts in order to resolve it. In addition, you must avoid any direct communications with IBM.

This waiver applies only to your participation in the performance of the contracts with DynCorp and SAIC. The statute, 18 U.S.C. § 208(a), continues to disqualify you from participating personally and substantially in any other particular matter that involves IBM's interests.

I have consulted with the Office of Government Ethics on this waiver and will provide that office a copy of it.

Sincerely yours,

P.W. Kelley

Mr. Bobby E. Dif

Deputy Designated Agency  
Ethics Official

1 - Federal Systems Integration and Management Center

[REDACTED]  
5203 Leesburg Pike  
Suite 1100  
Falls Church, VA 22041

b6

1 - Office of Government Ethics [REDACTED]  
1201 New York Ave., NW  
Washington, D.C. 20005-3917

39

January 10, 2003

Mr. Darwin A. John  
Chief Information Officer  
Federal Bureau of Investigation

Dear Mr. John:

As detailed below, this letter constitutes a grant of a waiver from the prohibitions of Title 18 United States Code Section 208(a). Pursuant to this waiver you may undertake all Trilogy program matters while in the performance of your duties as the Chief Information Officer, Federal Bureau of Investigation, to include all matters involving Microsoft Corporation, subject to the specific limitations set out herein.

In accordance with the Department of Justice Order on procedures for complying with ethics requirements (DOJ Order 1200.1, dated August 25, 1998) I, as the FBI's Deputy Designated Agency Ethics Official, have been delegated the authority for making "formal determinations" for employees of the FBI, including waivers of Title 18 United States Code Section 208(a) prohibitions. Under Section 208(a), an employee of the United States is prohibited from participating personally and substantially in a matter in which he has a financial interest, unless he obtains a waiver under Section 208(b). Section 208(b)(1) provides that a waiver may be granted upon a written determination that the financial interest involved is not so substantial as to be deemed likely to affect the integrity of the service that the government may expect from the employee.

It is my understanding that in order to aggressively pursue necessary FBI technology upgrades in a timely manner, it is essential that the Bureau utilize your experience and abilities. Technology upgrades, as embodied in the Trilogy program, are a key element of the Bureau's plans to support its primary missions, including counterterrorism and counterintelligence. As the Chief Information Officer for the FBI, your oversight and involvement in Trilogy are essential to the program's success.

1 - Mr. Darwin A. John  
1 - Mr. Patrick W. Kelley

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1 - ALU Library (Ethics\208 Waivers)

1 - ALU Tickler

1 - OGE Report

✓ 1 - 66F-HQ-1201415-C

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66F-17G-1201415-C-1338

APPROVED: Crim. Inv. \_\_\_\_\_ Inspection \_\_\_\_\_ Training \_\_\_\_\_  
CJS \_\_\_\_\_ Laboratory \_\_\_\_\_ Off. of EEO \_\_\_\_\_  
Finance \_\_\_\_\_ National Sec. \_\_\_\_\_ ALB \_\_\_\_\_  
Gen. Counter \_\_\_\_\_ OFA \_\_\_\_\_ Off. of Public &  
Info. Res. \_\_\_\_\_ Personnel \_\_\_\_\_ Cong. Affs. \_\_\_\_\_  
Director \_\_\_\_\_ *[Signature]* \_\_\_\_\_  
Sup. Director \_\_\_\_\_

Mr. Darwin A. John

This waiver specifically addresses the conflicts

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The Trilogy program is designed to effect immediate modernization of the FBI's computer hardware and network infrastructure, Bureau wide. The Transportation Network and Information Presentation Components (TN/IPC) of the Trilogy program are the subject of a contract that was awarded to DynCorp as the prime contractor on 5/4/2001. A third component, the User Applications Component (UAC), generated a second contract. As of 6/5/2001, the prime contractor for the UAC contract is SAIC. Each prime contractor has a number of subcontractors and suppliers. Microsoft is a subcontractor under both contracts. In addition, while the contracts address different aspects of the upgrade initiative, the objectives served by the two contracts are parts of an integrated whole. Therefore, action taken on one component could have consequences on the other. The TN/IPC contract was valued at inception at \$161.9 million and the UAC contract was valued at \$88.6 million. Purchases from Microsoft are estimated to total approximately \$6.3 million for software and services for the Trilogy program. The current financial statement for Microsoft indicates that Microsoft's revenue during their fiscal 2002 year ending June 30th totaled \$28.4 billion.

As the Trilogy program continues to mature, decisions must be made about software applications. As a decision has already been reached that Trilogy will be a Windows based system, every software issue potentially involves the Microsoft company.

For the purpose of this waiver, the official duties that you have that would impact your financial interest in Microsoft are those involved in overseeing implementation of the Trilogy program on behalf of the Director, FBI. You are not only the supervisory Chief Information Officer who oversees the FBI's Information Resources Division, but you are also a key advisor to the Director on all Trilogy matters. Your advice on the issue of system administration will be important and significant.

The solicitations that produced the Trilogy prime contracts used performance-based specifications. As a result, all significant decisions regarding the nature, scope, and

Mr. Darwin A. John

direction of the Trilogy program have been determined by the terms of the contracts, including how much work of what kind and value is to be performed by which entity. While minor deviations from the terms of the awarded contracts are possible, significant changes would ultimately require negotiation and mutual agreement of the parties and issuance of change orders by the contracting officer or contracting officer's representative. Both Trilogy prime contracts were awarded by and are administered by General Services Administration (GSA).

It is possible that a third prime contract for system administration may also be awarded and administered by GSA. Thus, although your participation in Trilogy program matters will be most significant, final decisions will be reviewed and implemented by third parties.

In light of the relatively small portion of your investment portfolio that your Microsoft holdings make up [redacted]; the fact that you are a key advisor to the Director; your unique "knowledge capital" derived from years of experience in the private sector; the very significant role GSA plays in contracting for the Trilogy program; and the very small impact that this potential contract could make on Microsoft's revenue stream, I find and determine that there is little likelihood that these interests will affect the integrity of your official actions. I, consequently, believe that a waiver of Section 208(a) prohibitions is appropriate for all Trilogy related matters that could impact Microsoft with the exception of matters that might require your involvement in direct negotiations with Microsoft. You may not negotiate directly with Microsoft or any of its employees on any cost or price of Microsoft products or services that may be used by the Trilogy program. This restriction only applies to the conduct of focused procurement negotiations, and would not, for example, preclude you from participating in general discussions with Microsoft concerning software applications, such as what are the Bureau's needs and what software packages would meet those needs.

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This waiver is granted based on the understanding that while you remain employed by the FBI that you, or anyone whose financial interests may be imputed to you, will not acquire any additional stock in Microsoft, or in any other entity which would constitute a conflicting financial interest in this matter. It is understood that the shares of Microsoft stock that you currently hold may increase in value; this waiver is intended to cover increased share value but not the acquisition of additional Microsoft shares, or in any other conflicting assets.

Mr. Darwin A. John

This waiver is being granted following consultations with the Office of Government Ethics.

Sincerely,

Patrick W. Kelley  
Deputy General Counsel and  
Deputy Designated Agency  
Ethics Official

Note: On January 2, 2003, pursuant to DOJ Order 1200.1, dated August 25, 1998, this Section 208 "waiver" letter was coordinated with the DOJ Department Ethics Office and subsequently with OGE. On January 2, 2003 [redacted] DOJ Ethics Office [redacted] concurred telephonically with OGC memorandum, Subj: Waiver Under 18 U.S.C. § 208(B)(1) for Chief Information Officer Darwin A. John, Federal Bureau of Investigation, dated January 2, 2003, attached.

[redacted] requested that two sentences be added to the letter before being transmitted to OGE. She requested that the letter inform Darwin John that he or anyone whose financial interests may be imputed to him will not acquire [redacted] or any other interests that would constitute a conflict of interest with his official duties. She also asked that we include a statement that the DGC consulted with OGE prior to granting the waiver. Both requests are satisfied in the letter. b6

On January 6, 2003, at the direction of [redacted] Office of Government Ethics, was contacted concerning this matter [redacted] and the draft waiver letter was faxed to her (202.208.8037). [redacted] responded the same day, also telephonically, concurring with the letter. (Note: OGE does not formally concur or not, they consult). She found the letter satisfactory and requested a copy of the signed waiver.

January 10, 2003

Mr. Darwin A. John  
Chief Information Officer  
Federal Bureau of Investigation

Dear Mr. John:

As detailed below, this letter constitutes a grant of a waiver from the prohibitions of Title 18 United States Code Section 208(a). Pursuant to this waiver you may undertake all Trilogy program matters while in the performance of your duties as the Chief Information Officer, Federal Bureau of Investigation; to include all matters involving Microsoft Corporation, subject to the specific limitations set out herein.

In accordance with the Department of Justice Order on procedures for complying with ethics requirements (DOJ Order 1200.1, dated August 25, 1998) I, as the FBI's Deputy Designated Agency Ethics Official, have been delegated the authority for making "formal determinations" for employees of the FBI, including waivers of Title 18 United States Code Section 208(a) prohibitions. Under Section 208(a), an employee of the United States is prohibited from participating personally and substantially in a matter in which he has a financial interest, unless he obtains a waiver under Section 208(b). Section 208(b)(1) provides that a waiver may be granted upon a written determination that the financial interest involved is not so substantial as to be deemed likely to affect the integrity of the service that the government may expect from the employee.

It is my understanding that in order to aggressively pursue necessary FBI technology upgrades in a timely manner, it is essential that the Bureau utilize your experience and abilities. Technology upgrades, as embodied in the Trilogy program, are a key element of the Bureau's plans to support its primary missions, including counterterrorism and counterintelligence. As the Chief Information Officer for the FBI, your oversight and involvement in Trilogy are essential to the program's success.

- 1 - Mr. Darwin A. John
- 1 - Mr. Patrick W. Kelley
- 1 - [REDACTED]
- 1 - [REDACTED]
- 1 - [REDACTED]
- 1 - ALU Library (Ethics)208 Waivers)
- 1 - ALU Tickler
- 1 - OGE Report

(7)

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APPROVED:	Crim. Inv.	Inspection	Training
	DJS	Laboratory	Off. of EEO
	Finance	National Sec.	Mgmt.
	Gen. Counsel	OIG	Off. of Justice &
	Deputy Director	Info. Res.	Cong. Affs.

LIMITED OFFICIAL USE

March 9, 2001

Federal Bureau of Investigation  
Washington, DC 20535

SOURCE SELECTION SENSITIVE INFORMATION -- LIMITED OFFICIAL USE

Dear [REDACTED]

This letter responds to your request for a waiver pursuant to 18 U.S.C. § 208(b)(1) to allow you to participate as a member of the source selection advisory council ("SSAC") considering proposals submitted in connection with the FBI's technology upgrade, the Trilogy procurement, Solicitation # GSC-TFMG-01-M026. This procurement affects your financial interests, which arise from your holding of stock and stock options in International Business Machines, Inc. ("IBM").

You have advised this Office that you currently hold approximately [REDACTED]

Your IBM-related assets make up [REDACTED] b6

For the purposes of this waiver request, the Governmental duties you have that conflict with your financial interests are those as a member of the SSAC considering the Trilogy proposals. In that role, you are required to analyze and recommend appropriate action on the proposals, including recommending to the source selection authority which proposal should be accepted. You are not the selection authority, however. In this case the selection official is an employee of Federal Systems Integration and Management Center.

Among the four companies competing for the prime contract, each has proposed subcontractors and various vendors as sources of equipment and supplies. One of the 98 firms that are proposed as subcontractors or vendors is Tivoli Systems, Inc. ("Tivoli"). In carrying out your duties as a member of the SSAC, your interests in IBM could be affected by the selection or non-selection of a proposal that included Tivoli. This is true because Tivoli is a wholly owned subsidiary of IBM. Since IBM owns 100% of Tivoli's voting stock, the economic impact of

1 - Mr. Parkinson

1 - Mr. P. Kelley

1 - [REDACTED]

1 - ALU Tickler

66F-HQ-120115-C

(1) - ALU Library (Ethics/Conflicts of  
Interests/Waiver)

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[REDACTED] 0

disqualify you from participating personally and substantially in any other particular matter that involves IBM's interests.

I have consulted with the Office of Government Ethics on this waiver and will provide that office a copy of it.

Sincerely yours,

P.W. Kelley  
Deputy Designated Agency  
Ethics Official

March 23, 2001

Federal Bureau of Investigation  
Washington, DC 20535

SOURCE SELECTION SENSITIVE INFORMATION -- LIMITED OFFICIAL USE

Dear [REDACTED] O

This letter responds to your request for a waiver pursuant to 18 U.S.C. § 208(b)(1) to allow you to participate as a member of the Source Selection Advisory Council ("SSAC") considering proposals submitted in connection with the FBI's technology upgrade, the Trilogy procurement, Solicitation # GSC-TFMG-01-M026. This procurement affects your financial interests, which arise from your holding of stock in Microsoft Corporation ("Microsoft").

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You have advised this Office that you currently hold approximately [REDACTED] Your Microsoft [REDACTED] O stock makes up [REDACTED] your investments.

For the purposes of this waiver request, the Governmental duties you have that conflict with your financial interests are those as a member of the SSAC considering the Trilogy proposals. In that role, you are required to analyze and recommend appropriate action on the proposals, including recommending to the source selection authority which proposal should be accepted. You are not the selection authority, however. In this case the selection official is an employee of Federal Systems Integration and Management Center.

Among the four companies competing for the prime contract, each has proposed subcontractors and various vendors as sources of equipment and supplies. Two of those competing for the prime contract propose using off-the-shelf products produced by Microsoft. The total value for both offers is estimated to be \$25 thousand. In carrying out your duties as a member of the SSAC, your interests in Microsoft could be affected by the

1 - Mr. Parkinson  
[REDACTED]

1 - [REDACTED] P  
1 - [REDACTED]  
1 - ALU Library (Ethics/Conflicts of  
Interests/Waiver)

[REDACTED]  
1 - ALU Tickler  
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[REDACTED] 0

selection or non-selection of a proposal that included using Microsoft products.

This effect on Microsoft gives you a disqualifying financial interest in the matter. Under 18 U.S.C. §208(a), Federal employees may not participate personally and substantially in any particular matter that would have a direct and predictable effect on their financial interests or those of certain others, such as their spouses. Thus, you would be disqualified from acting on the proposals.

Nevertheless, under 18 U.S.C. § 208(b)(1), I may waive the prohibition of 18 U.S.C. § 208(a) where I determine that the employee's financial interest in the matter "is not so substantial as to be deemed likely to affect the integrity of the services which the Government may expect" from the employee. I have been delegated authority by the Director, FBI, to make this determination.

Accordingly, in light of the minor role the services that are proposed to be purchased from Microsoft plays in this procurement, the small impact the purchase or non-purchase of services from Microsoft would likely have on Microsoft's economic health, and the small percentage your Microsoft holdings represent of your investments, I hereby grant a waiver of 18 U.S.C. § 208(a) with regard to your participation as a member of SSAC that would affect your financial interests in Microsoft. That financial interest is not so substantial as to be deemed likely to affect the integrity of your services in these matters.

This waiver applies only to your participation in the SSAC considering proposals submitted in response to Solicitation GSC-TFMG-01-M026 and only as to your current holdings of Microsoft stock. The statute, 18 U.S.C. § 208(a), continues to disqualify you from participating personally and substantially in any other particular matter that involves Microsoft's interests. In addition, any significant change in your interest in Microsoft, beyond normal market fluctuations or dividend reinvestments would need to be separately evaluated.

I have consulted with the Office of Government Ethics on this waiver and will provide that office a copy of it.

[REDACTED] O

Sincerely yours,

P.W. Kelley  
Deputy Designated Agency  
Ethics Official